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# ORIGINAL

Before The FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In re Applications of MM Docket No. File No. BRCT-940407KF READING BROADCASTING, INC. For Renewal of License of Station WTVE(TV), Channel 51 Reading, Pennsylvania and ADAMS COMMUNICATIONS CORPORATION File No. BPCT-940630KG For Construction Permit for a New Television Station to Operate on Channel 51, Reading, Pennsylvania To: Magalie Roman Salas, Secretary for direction to The Honorable Richard L. Sippel

## OPPOSITION OF ADAMS COMMUNICATIONS CORPORATION TO "MOTION TO COMPEL"

Adams Communications Corporation ("Adams") hereby opposes the Motion to Compel filed by Reading Broadcasting, Inc. ("RBI") on April 26, 2000 in the above-captioned proceeding.

#### A. Adams's Objections

#### 1. Document Requests

Administrative Law Judge

(a) <u>Document Request No. 13</u> -- In this request RBI sought all documents "concern[ing] or relat[ing] to the preparation" of Adams's application, including bank letters, transmitter site documents, studio site documents and the like. Adams objected to this request as beyond the scope of the issue and beyond the permissible bounds of discovery.

In response, RBI asserts conclusorily that its request seeks

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documents which are "clearly relevant and material to the issue of Adams' intent at the time its Application was filed". RBI Motion at 3. But the issue as framed by the Presiding Judge is

whether the principals of [Adams] filed, or caused to be filed, an application for construction permit in the hope or expectation of achieving through litigation and settlement, a "precedent" or other recognition that the home shopping television broadcasting format does not serve the public interest.

<u>See</u> Memorandum Opinion and Order ("MO&O"), FCC 00M-19, released March 6, 2000, p. 6. <sup>1</sup>/ Adams does not believe that the materials sought by RBI have been shown to relate in any way to the relatively narrow question of whether Adams's application was filed "in the hope or expectation of achieving through litigation and settlement a 'precedent'". <sup>2</sup>/

Moreover, to the extent that RBI may be seeking the documents at issue in order to identify individuals who have knowledge about that narrow question, Adams has already disclosed to RBI the identities of the persons who were involved in the

½ The quoted language is designated as Issue A in the MO&O. Issues B-D in the MO&O are all derivative of Issue A -- that is, Issues B-D are not themselves independent issues; rather they are all based on any findings and conclusions as to Issue A. On that basis, Adams understands that the issue about which evidence it to be adduced in this case is as set forth in the text above. According to the language of Issues B-D, those latter issues will be resolved by reference to the evidence adduced with respect to Issue A, and the findings and conclusions based thereon.

<sup>2/</sup> By way of illustration, and without conceding that this document is properly discoverable under the Phase III issues, Adams is including as Attachment A a copy of Adams's financial commitment letter from the American National Bank and Trust Company of Chicago. RBI's document request appears designed to secure a copy of this letter. But the letter on its face bears no relationship whatsoever to the designated issue to be tried here.

preparation of Adams's application, including its engineering showing and the obtaining of its financial commitment and transmitter site. That information was set forth in Adams's application filed almost six years ago, and it was also set out in documents produced by Adams to RBI in response to RBI's discovery requests in Phase I of this proceeding.

## 2. <u>Interrogatories</u>

#### (a) <u>Interrogatories Nos. 20-22</u>

As set forth above in connection with Document Request No. 13, Adams does not believe that the information sought by RBI has been shown to relate in any way to the relatively narrow question of whether Adams's application was filed "in the hope or expectation of achieving through litigation and settlement a 'precedent'".

Moreover, RBI has already engaged in extensive discovery concerning the preparation of the Adams application during Phase I of this proceeding. Included herewith as Attachment B is an excerpt from the deposition of Howard Gilbert taken by counsel for RBI on October 14, 1999; at or around the same time RBI also deposed all other Adams officers and directors. It is clear that RBI had ample opportunity, without objection from Adams, to inquire into precisely the matters which are now the subject of RBI's interrogatories, RBI availed itself of that opportunity more than six months ago, and RBI therefore has or should have the information which it now claims to be seeking. Under these circumstances RBI's interrogatories are duplicative of discovery

already undertaken, and responded to, months ago.

#### B. Adams's Allegedly Incomplete Responses

## 1. <u>Document Requests</u>

#### (a) Document Request No. 1

Adams stands by its initial response, <u>i.e.</u>, that this document request is incomprehensible as written. While RBI, in its Motion to Compel, claims in conclusory fashion that this request "clearly" seeks production of certain documents, that just isn't so. The request as originally propounded sought documents concerning

research conducted by [Adams] . . . as to potential construction permit applications in competition with [a certain class of] license renewal applications.

Adams does not understand what "research as to potential construction permit applications" means.

It does not appear that RBI understood that language, either. In its Motion to Compel, RBI re-phrases the request to seek documents concerning

anything Adams did . . . to investigate home shopping stations and their relative markets.

Motion to Compel at 6. That is a substantially different request than the one which was propounded, and Adams does not believe that it could have been expected to interpret the original request in the way which RBI has now suggested.

Moreover, this too was an area about which RBI undertook discovery under Phase I. <u>See</u>, <u>e.g.</u>, Attachment B hereto. As a result, this is duplicative of discovery already undertaken, and

responded to, months ago. Further, it is duplicative of information sought by RBI in its Interrogatories Nos. 1 and 2, to which Adams responded.

#### (b) <u>Document Request No. 2</u>

Again, Adams stands by its initial response: this request is not clearly stated, and to the extent Adams was able to perceive the gist of the request, the request exceeded the scope of the issues herein. Nevertheless, Adams did make a good faith effort to prevent any claim that Adams was trying to avoid discovery by providing representative documents which Adams believed to be responsive, <u>i.e.</u>, documents which demonstrated that Adams did initiate the preparation of an application for a new construction permit for a television station in Marlborough, Massachusetts. <sup>3</sup>/

Adams continues to believe that, while the very limited fact that Adams did initiate the preparation of an application for the Marlborough channel may arguably be relevant in some way to the designated issue, the extreme detail sought by RBI's request far exceeds that marginal relevance. This is especially so in view of the fact that Adams never filed any Marlborough application. Under these circumstances, Adams should not be required to produce any further documents in response to this request.

<sup>3/</sup> The documents provided by Adams establish the approximate dates during which the Marlborough application was in preparation, the identity of the consulting engineer who worked on the technical portions, and the fact that the final transmitter site which would have been specified was shortspaced.

## (c) Document Request No. 6

Again, Adams stands by its response, which was addressed to the request as propounded by RBI. In its Motion to Compel RBI re-writes its request in a manner which significantly changes the request. The original request sought documents

that you contend support[] your conclusion prior to filing your application that [RBI's programming was not serving the public interest].

As stated in its response, Adams believes that the entire record of RBI's programming as compiled (by both Adams <u>and</u> RBI) during discovery and trial in Phase I of this proceeding "supports [Adams's] conclusion" concerning that programming. Adams's response to this request is therefore "appropriate" (to use RBI's term from page 9 of its Motion to Compel).

#### 2. Interrogatories

## (a) Interrogatories Nos. 1 and 2

Again, Adams stands by its initial responses.

Interrogatory No. 1 sought a description of

everything [Adams] did . . . to research potential markets for potential construction permit applications in competition with license renewal applications for television stations broadcasting "home shopping" programming. . . .

Adams answered the question as it was posed. In so doing, Adams went out of its way to explain how Adams was interpreting the question, so that its answer would be properly understood. RBI's objection arises from RBI's apparent disappointment that the question, as framed by RBI, was less than clear and precise.

In any event, Adams believes that, with one exception, the

information which it has provided in its initial answers to RBI's interrogatories in toto provides a complete response to this particular interrogatory, even as re-written by RBI in its Motion to Compel. The single exception is the fact that, in connection with Adams's initial preparation of its Marlborough,

Massachusetts application, Mr. Gilbert arranged for the videotaping of six-ten days' (to the best of Mr. Gilbert's recollection) worth of home shopping programming in the Boston area. Mr. Gilbert reviewed those tapes. However, since Adams decided not to file an application for the Marlborough channel, those videotapes were destroyed. See Attachment C (Declaration of Howard N. Gilbert).

Interrogatory No. 2 sought additional information concerning the matters addressed in response to Interrogatory No. 1. Adams provided that additional information in its initial response. At RBI's suggestion (in its Motion to Compel), undersigned counsel has obtained from his firm's internal billing records an itemized list of activities undertaken by Bechtel & Cole personnel on behalf of Adams prior to the filing of the Adams application. That itemized list, with certain internal information (unrelated to the dates, descriptions or lengths of the activities involved) redacted, is included as Attachment D hereto.

#### (b) Interrogatory No. 11

RBI's apparent concern with Adams's answer to this interrogatory is that Adams did not adequately identify the "equipment used [by Mr. Gilbert] for review" of the videotapes.

But Adams did state in its answer that Mr. Gilbert used a "standard videotape recorder". Mr. Gilbert has no further recollection. See Attachment C. Moreover, as a practical matter, Adams is unable to perceive the significance of the identity of the equipment involved insofar as the matters at issue here are concerned.

#### (c) <u>Interrogatories Nos. 4 and 9</u>

RBI's motion with respect to these interrogatories is limited to a complaint that Adams has not adequately identified the representative of the Reading Eagle whom Mr. Gilbert interviewed. In particular, RBI suggests that Adams should have provided that person's "physical description, age, weight, height, hair color" and/or gender. Motion to Compel at 12. RBI's own instructions to RBI's interrogatories specify that a person should be identified by providing "name, home and business addresses, phone numbers, and electronic mail address(es)". Interrogatories at 4. No mention was made of physical attributes at all, and Adams therefore cannot be faulted for not including reference to any such attributes. As indicated in Adams's answers, Mr. Gilbert did not ask the names of the persons he interviewed, so that element of the identification sought by RBI is unavailable. The interview of the Reading Eagle representative occurred at the offices of the Reading Eagle. While Mr. Gilbert cannot recall many details concerning that particular interviewee, he can state with assurance that the interviewee was an adult female, and not a "10 year old

delivering papers on her bicycle", as RBI suggests in its Motion to Compel. See Attachment C.

## CONCLUSION

In light of the foregoing, Adams submits that the Motion to Compel should be denied.

Respectfully submitted,

/s/ Harry F. Cole Harry F. Cole

Bechtel & Cole, Chartered 1901 L Street, N.W. Suite 250 Washington, D.C. 20036 (202) 833-4190

Counsel for Adams Communications
Corporation

May 3, 2000





33 North LaSalle Street/Chicago, Illinois 60690/(312) 661-5000

DANIEL G. WATTS VICE PRESIDENT (312) 661-6943

June 23, 1994

Mr. Robert L. Haag Adams Communication 155 N. Michigan Ave., Ste. 725 Chicago, IL 60604

Dear Mr. Haag:

This is to confirm American National Bank and Trust Company of Chicago's (ANB) intent, subject to ANB's approval as mentioned below, to provide a loan of \$5,000,000 to you to finance construction and operation of a new UHF television station at Reading, Pennsylvania. Such a loan would be given final consideration and approval contingent upon the following conditions being satisfactorily met in the Bank's sole discretion:

- You are successful in obtaining approval from the Federal Communications Commission to construct and operate a television station on channel 51 in Reading, Pennsylvania;
- 2. All customary credit criteria and policies of ANB are met at such time as you (a) have received the license to operate said station; and (b) submit a specific loan request to ANB for a formal lending commitment.

Typically loans of this nature will be subject to negotiation and contingent upon the exact credit conditions prevailing at the time of such commitment, if issued. However, at this time the contemplated interest on any loan made would be up to 2% above a nationally published prime rate (for information, the prime rate of ANB at this writing is 7.25%) interest payable monthly; and, any loan made will be repaid, after a one-year moratorium on principal repayment as necessary, based upon a eight-year amortization schedule with a balloon payment due after the third year or as otherwise reasonable in line with financial projections received and deemed acceptable by ANB prior to formal approval.

## American National Bank

Mr. Robert L. Haag June 23, 1994 Page Two

As security for the loan, ANB shall require the execution and conveyance of such security interests and documents as may then be used in our normal practices for loans of this type, in form and substance acceptable to ANB and its counsel. Such collateral security would be contemplated to include but not necessarily be limited to a pledge of stock in the event the investment shall be placed in a corporation or pledge of the ownership interest as it may otherwise appear in the license-holder entity, and a lien against the physical assets of the television station with priority acceptable to ANB, subordinate only to purchase-money lien(s) for equipment and facilities at the television station if financed by others. A personal guaranty of the principal of the corporation may be required.

Of course, since you are not obviously in a position to submit a formal loan request at this time, this letter should be not construed by any party to represent a binding loan commitment. At such time as a formal loan request is submitted and if ANB does formally approve the loan as requested, a letter of commitment will be provided to you by ANB setting for the specific terms and conditions of the loan.

We look forward to working with you should you be successful in obtaining said FCC license.

DGW/ld



## In The Matter Of:

In Re Applications of: READING BROADCASTING, INC.

> HOWARD GILBERT October 14, 1999

BLOCK COURT REPORTING (A U.S. Legal Company)
733 15th Street, Northwest - Suite 937

Washington, DC 20005 (202) 638-1313

Original File 19399C.PRT, 54 Pages Min-U-Script® File ID: 3034920098

Word Index included with this Min-U-Script®

- [1] Reading before either of these day-long visits?
- [2] A: Years before I think I was in Reading once.
- [3] Q: For what purpose?
- [4] A: Just happened to be there.
- [5] Q: Do you recall how long you were there then?
- (6) A: No.
- [7] Q: Was it less than a day?
- 181 A: Yes.
- [9] Q: Do you recall any other visits to Reading?
- [10] A: No.
- [11] Q: Do you recall watching television on any of
- [12] these visits?
- [13] A: Yes.
- [14] Q: When did you watch television?
- [15] A: I was having lunch.
- [16] Q: During which visit?
- [17] A: I don't remember.
- [18] Q: Do you know what station or stations you
- (19) watched?
- [20] A: I don't remember now, I didn't watch the
- [21] station in question, I'll tell you that. Couldn't
- [22] get it on the television set.

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- (1) Q: And do you recall if prior to filing the
- 2 application of Adams Communications, you undertook
- 31 any investigation of the television market in which
- (4) that station operates?
- [5] A: Yes.
- [6] Q: What was the nature of that investigation?
- [7] A: I pulled data on the television market and
- [8] various material which you use in try to find out
- 19] what the economic aspects are, demographic aspects of
- [10] a market are.
- [11] Q: Did anyone assist you in that process?
- [12] A: Probably had a librarian or somebody. I
- [13] don't do this stuff myself, but I can't tell you who
- [14] the person was.
- [15] Q: Did you share the results of that research
- [16] with anyone?
- [17] A: Yes.
- [18] **Q: Who?**
- [19] A: Robert Haag, may have shared it with
- [20] Fickinger. I don't remember. Richard knows a lot
- [21] about these things. Probably Fickinger. I'm not
- [22] sure.

- [1] Q: Do you recall the nature of any written
- [2] product that may have come out of that analysis or
- [3] research?
- A: There was no written product.
- [5] Q: You didn't take any notes?
- [6] A: I have a pretty good memory as to facts and
- [7] figures and for a relevant area. I didn't need any
- [8] notes.
- (9) Q: Did you obtain any information about the
- [10] revenue of Channel 51 in Reading, Pennsylvania?
- [11] A: No. I'm not sure, but I don't think so. I
- [12] wasn't interested in that fact.
- [13] Q: Why weren't you interested in that?
- [14] A: Because that wasn't the issue that I was
- ns interested in.
- [16] Q: What were you interested in?
- [17] A: I was interested in whether they were
- [18] rendering a service to the community.
- [19] Q: What was your conclusion?
- [20] A: They weren't.
- [21] **Q:** Why not?
- 2] A: Because I believe a television station

- [1] should serve the interests of the community and make
- 2 available through the broadcast media what's going on
- [3] in the community, provide public service of one sort
- (4) or another. They just weren't.
- [5] Q: Do you know what they were doing?
- [6] A: Yes.
- (7) Q: What was it?
- [8] A: Home shopping network.
- [9] Q: Do you know if any other stations in the
- [10] country were doing home shopping network programming?
- [11] A: Yes.
- [12] Q: Did you analyze those stations?
- [13] A: Some.
- [14] Q: Do you recall the markets, the other
- [15] markets that you may have researched?
- A: I think there were about 15 markets that
- [17] were I believe it was Silver and whatever it was
- [18] they were broadcasting into.
- [19] **Q:** Was that Silver King Broadcasting?
- [20] A: Silver King.
- [21] **Q:** Did you reach any conclusion as to whether
- [22] or not the Silver King stations were providing a

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- [1] public service?
- [2] A: Yes.
- [3] Q: What was your conclusion?
- (4) A: They weren't either.
- [5] Q: And did you share that analysis with
- [6] anyone?
- 171 A: Yes.
- [B] Q: With who?
- A: Robert Haag, probably Fickinger, maybe
- [10] Umans. I don't know. Probably I'm not sure who.
- [11] Harry Cole surely, Gene Bechtel.
- [12] Q: Did you ever suggest to anyone filing a
- [13] competing application against any of the Silver King
- [14] stations?
- [15] A: I don't know, because we considered it. I
- [16] don't know if we ever suggested that or not. I
- [17] talked about it.
- [18] Q: I take it you talked about it with the
- [19] individuals you just named?
- [20] A: Some, not necessarily all.
- [21] Q: Who?
- [22] A: Probably Bob Haag, maybe Fickinger, I just

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- [1] don't remember.
- [2] Q: Did you individually or with the group
- 3 collectively reach a decision to file or not file
- [4] against any of those stations?
- [5] A: I think that speaks for itself. We filed
- [6] against this station.
- [7] **Q**: I'm sorry. I was referring to the Silver
- [8] King stations.
- [9] A: Please repeat the question.
- [10] Q: Did you individually or did the group
- [11] collectively reach a decision not to file against any
- [12] of the Silver King stations?
- [13] A: We never filed. That's all I can remember,
- [14] that result.
- [15] **Q**: Do you know why not?
- [16] A: None of them were coming up for renewal at
- [17] that point. If they had, we would have.
- [18] Q: Apart from the Silver King stations and the
- [19] Reading station, do you recall undertaking this type
- [20] analysis for any other stations?
- [21] A: I don't remember who owned what station,
- [22] but we looked at home shopping network stations,

[1] whoever owned them.

- 2 Q: Do you ever recall doing an analysis as to
- whether or not to file a competing application
- (4) against a station in or near Boston, Massachusetts?
- [5] A: Yes.
- [8] Q: Do you know who operated that station?
- [7] A: No. I assume Silver King, but I really
- [8] don't remember.
- (9) Q: And do you recall specifically with respect
- [10] to that station why your group never filed a
- [11] competing application?
- [12] A: Yes.
- [13] Q: Why is that?
- [14] A: Couldn't find an antenna site.
- [15] Q: Who was it that searched for the antenna
- [18] site?
- [17] A: We had a broker. I don't remember the
- ns broker's name.
- [19] Q: Do you recall having discussions with
- 201 anyone else about your plans for programming on the
- [21] Reading station if your application were granted?
- 22] A: Obviously the answer is no. I don't recall

- [1] offhand discussions.
  - [2] Q: Do you recall participating in any
  - 3 discussions with anyone about the management of the
  - [4] Reading station if your application were successful?
  - ISI A: Yes
  - [6] Q: Who participated in those discussions?
  - [7] A: Bob Haag.
  - [8] Q: What was discussed?
  - [9] A: Who would manage the station, how would we
  - [10] staff it.
  - [11] Q: Did you decide who would manage the
  - [12] station?
  - [13] A: No. There's no point in doing that four
  - [14] years our experience is that everybody moves
  - [15] and take a station and look at who's on staff and
  - [16] look at the station actually three years later
  - probably almost, nobody is still there. It's
  - [18] irrelevant until you get the license. There's always
  - [19] people available. I knew this would be a long
  - [20] slugging fight.
  - [21] **Q**: Did you have any discussions about the size
  - [22] of the staff?

[1] A: No. We talked about money, but we never [2] talked about size of staff.

[3] Q: When you say you talked about money, what [4] do you mean?

A: Budgets, what probably it would cost us toget going.

[7] Q: Was that ever committed to writing?

[8] A: No.

Q: There was never any written budget?

[10] A: No. I don't think — I can't answer

[11] positively. I don't think there was. We did it in

[12] connection with the application, but I just don't

[13] remember it. May or may not have been.

[14] Q: Do you recall participating with anyone in [15] any discussion of potential ownership changes in

[16] Adams Communications?

[17] A: I don't know what you are talking about.

[18] Q: Well, did you ever have discussions about

[19] expanding or contracting the size of the group?

[20] A: No.

[21] Q: Did you ever have any discussions about one

[22] or more persons possibly selling their interest in

[1] remember, but Telemundo, I'm not sure — but they —

2 I guess not. I'm not sure if anybody has ever made

131 an offer. Somebody, I'm not sure who, talked about

making a joint offer to us and your client about

is selling our interests. I don't remember who that

[6] Was

[7] Q: Do you think it might have been Telemundo

B) or someone representing Telemundo?

p A: I just don't remember. I'm not even sure

nog it was Telemundo. But I just dismissed it pretty

[11] much out of hand. I just don't remember. It might

1121 have been Telemundo and somebody else. I just don't

(13) remember.

[14] Q: Do you recall if a specific dollar figure

[15] was presented to you?

[16] A: No, no figure was ever presented.

[17] Q: Why did you dismiss it out of hand?

[18] A: We intend to operate the station. We

[19] intend to win the lawsuit.

[20] Q: Have you ever had any discussions with

211 Telemundo or any other programmer about providing

programming to the station if your application is

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[1] Adams Communications?

[2] A: I don't think so, no.

[3] Q: Did you ever have any discussions with

[4] anyone about any member of the organization assigning

[5] or transferring their ownership to anyone else?

[6] A: No.

Q: Have you ever been involved in any

[8] discussions with anyone about potential sale of the

[9] FCC authorization if your application were granted?

A: I don't think so. What's his name offered

[11] us \$250,000 to back out.

[12] Q: Who was that?

[13] A: Michael Parker.

[14] Q: When did that occur?

[15] A: Sometime in the last three years or

[16] something I would say. I'm bad on — if I had to say

closer to one year than to three years, but he called

[18] me and offered 100 - 250,000 if we would withdraw

[19] our application.

Q: What was your response?

[21] A: Told him we wanted to operate the station.

[22] Let's see. Telemundo may have made — I don't

[1] successful?

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[2] A: No.

3 Q: The more recent approach to you about

[4] settling the case, do you recall when that occurred?

A: You mean Parker's?

[6] Q: No, no, the other group that you couldn't

[7] remember.

B A: Nobody ever offered to settle the case.

19 The only offer I ever I had to settle the case was

no Mike Parker's for 250.

[11] Q: Maybe I misunderstood. I had thought that

the other party that approached you was interested in

[13] disposing of your application and acquiring the

[14] station; is that correct?

[15] A: They said they wanted to talk to Parker and

[16] to us about it.

[17] Q: Do you recall when that discussion

[18] occurred?

[19] A: I would say sometime in the last year or 18

201 months.

[21] Q: Was that a face-to-face meeting?

22] A: No. It could have been Parker and another

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- (1) guy for all I know. It was a phone call.
- Q: Did anyone besides you participate in that
- [3] call on behalf of Adams Communications?
- A: It was a call to me. Only the party on the [4]
- [5] other side.
- Q: You didn't patch in Mr. Haag? [6]
- A: No, no. I didn't give it a lot of credence 7
- [8] frankly. It was a phone call.
- Q: Where was it left at the end of that phone
- [10] cail?
- A: Nothing ever came of it. I told him I [11]
- [12] wasn't interested, but I never got a second phone
- [13] call.
- Q: Do you recall any other discussions with [14]
- [15] any party outside of Adams Communications about a
- [18] potential settlement of the case?
- A: None. [17]
- Q: I'm going to ask you a series of questions [18]
- [19] about media interests, and by that I mean interests
- [20] in any form of mass communications, whether it be
- [21] broadcast satellite, cable television, publications
- [22] of any type. I'm excluding any ownership interest
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- [1] less than 1 percent in a publicly traded company.
- [2] With those parameters, do you hold any ownership
- [3] interests of any type in any company or organization
- [4] that owns or operates any mass communications
- (5) outlets?
- A: No. I'm trying to think of magazines.
- [7] Other than magazines, no, I don't think I have, other
- [8] than magazines.
- Q: You don't think -191
- A: Nothing other than magazines. I'm trying
- [11] to think if I have any interest in any printed
- [12] situations. I don't think so, no.
- Q: Are you an officer of any company or
- [14] organization that owns or operates any mass
- [15] communications outlet?
- A: Other than Adams, no. [16]
- Q: Director of any such company? [17]
- A: No. [18]
- Q: How did you first learn of the opportunity [19]
- [20] to apply in Reading, Pennsylvania?
- A: We did a search of expiration dates of
- [22] licenses.

- Q: And approximately when did that search
- z occur?
- A: We filed in '94. I don't remember when we
- filed in '94, but sometime before that.
- Q: You filed in June 30, 1994.
- A: So I would say in the year before that, but
- [7] I don't remember when in the year, certainly more
- (a) than three months before. I would think it could be
- g six months; sometime before.
- Q: I would like to refer you to what's been
- in identified as Fickinger Exhibit 1, which is a copy of
- [12] the application as originally filed at the FCC, and
- [13] specifically I would like to refer you to Page 3 of
- [14] that form.
- [15] A: Page 3.
- Q: If you look at the bottom. [16]
- A: I'm working on there, yes. [17]
- Q: In the middle of that page there's [18]
- [19] reference to incorporation in Boston, Massachusetts
- 201 in November on November 23, 1993. Is it fair to
- 1211 say it would have occurred before then?
- A: Yeah, probably. [22]

- Q: Can you recall why it was decided to
  - [2] incorporate in Massachusetts?
  - A: Yeah, at that time we were looking at that
- [4] station. We were hoping to find a site for a Boston
- station to do the same thing.
- Q: Who was involved in discussions about who
- [7] would be owners of this new entity?
- A: Who was involved? [8]
- Q: Yes. 191
- A: Can you ask that question more pointedly? [10]
- Q: What's that? [11]
- [12] A: Could you ask it more pointedly?
- Q: Well, who participated in the discussions [13]
- [14] about who would join in this effort?
- A: Bob Haag, myself, Fickinger, Steinfeld, [15]
- [16] Umans probably.
- Q: How were the relative percentage interests [17]
- [18] of ownership decided or negotiated?
- A: They weren't negotiated, just friendly
- izoi discussion. In other words, whatever was we're
- [21] all friends. Basically we were all in the Monroe
- [22] case together. Basically most of us go into

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- [1] contingent interests in the company?
- A: No. [2]
- Q: The cover sheet to the application
- [4] indicates that it was filed by Bechtel & Cole on
- 5 behalf of Adams Communications Corporation. Do you
- [6] know who picked Bechtel & Cole to be counsel to
- 7 Adams?
- A: Yes [8]
- Q: Who was that? 191
- A: I did. [10]
- Q: Did anyone else participate in that [11]
- rizi decision?
- A: Yes. [13]
- Q: Who? [14]
- A: Bob Haag surely did. I don't know if [15]
- [16] Fickinger and Umans and Steinfeld or not, but Bob
- [17] Haag surely did, but they had represented us before.
- [18] Gene Bechtel has done legal work for clients of mine
- [19] for when we there in Fox, 15, 20 years. I don't
- [20] know, a long time, a long relationship with Gene
- [21] Bechtel, longer relationship with Erin Fox.
- Q: The engineering exhibit to the application [22]

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- [1] indicates that it was prepared by Suffa & Cavell,
- 121 Inc. —
- A: Yes. [3]
- [4] **Q**: — as consulting engineers for the company.
- [5] Do you know who picked that company to prepare the
- [6] engineering portion of the application?
- A: I did. [7]
- Q: How did you -[8]
- A: Just talking with Haag. [9]
- Q: How did you come to pick them with [10]
- [11] Mr. Haag?
- A: We believed they were qualified. (12)
- Q: Had they done work for you or any company
- [14] you owned before?
- A: Yes. [15]
- Q: Which company? [16]
- A: This company. [17]
- Q: Adams? [18]
- A: Yes. [19]
- Q: What was the nature of that prior work? [20]
- A: In Boston, looking for a Boston site. [21]
- Q: Had they done any work prior to that? [22]

A: I don't think so, but I wouldn't swear to

[2] it. We used engineers. I just don't remember. I

- (3) don't think so, though.
- Q: Exhibit 3 to the application references a
- [5] loan commitment from American National Bank and Trust
- [6] Company in Chicago.
- A: Yes. 7
- Q: Who arranged for that loan commitment? 181
- A: Haag of I. [9]
- Q: Had that bank provided a loan commitment to [10]
- **Monroe Communications?**
- A: No. [12]
- [13] Q: Do you know why this bank was selected?
- A: They happened to be the bank that this law
- [15] firm banks with. We do legal work for them, all
- [16] kinds of relationships. John McKinnen is a man I
- would consider not only a banker, but a friend of
- myself, Robert Haag, Bill Podolsky, all three of us;
- maybe more of the people, possibly Umans, I'm not
- [20] sure.
- Q: That same paragraph references a commitment [21]
- by the shareholders to contribute funds for

- [1] prosecution of the application.
  - A: Uh-huh.
- (3) Q: Do you know if that commitment was ever
- [4] committed to writing?
- A: It was not. (5)
- Q: And the prior paragraph on that page
- [7] references an estimated budget of \$4.5 million.
- A: Uh-huh.
- Q: Do you know who prepared that analysis of
- from that estimate?
- A: I don't remember. I remember we did it. I
- [12] told the people what we felt everybody would be
- [13] prepared to ante up for. This is a very strong
- [14] financial group. That kind of money is not a
- [15] difficult problem.
- Q: I'm confused, why did you tell people to be
- [17] ready to ante up for it if you had a loan commitment
- [18] that exceeded the proposed budget?
- A: We didn't know that we wanted to borrow it
- [20] frankly. We wanted to have plenty of money. Milt
- [21] Podolsky is a client of yours. Talk to your office
- [22] about the way Milt funds situations.

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- Q: He is not a client. He has interests in [2] companies that are clients.
- A: Those clients are Milton's companies.
- [4] Milton is a client of mine too. Ask them about
- [5] Milton and the way he funds situations. I'm sure
- [6] your lawyers know about it. We adequately fund our
- [7] situations.
- Q: I'm not here to get into an argument with
- 191 you and -
- A: I'm not arguing with you. I'm giving you [10]
- [11] some facts.
- Q: I'm not here to take instructions from you
- [13] about what I should do.
- A: I would talk to my partners. Take it as
- [15] instructions or whatever you damn please, but take
- [16] it.
- [17] Q: When you asked the other members of the
- [18] group to be ready to ante up, did you ask them for
- [19] any balance sheets as to their financial status?
- A: No. [20]
- Q: Did any of them provide balance sheets as
- [22] to their financial status?

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- A: Yes. [1]
- Q: Who did? [2]
- A: Everybody. [3]
- Q: If you hadn't asked for the balance sheets,
- [5] why did they provide them?
- A: I did ask for the balance sheets. You
- [7] didn't ask the question that way.
- Q: I'm sorry. So you did ask everyone to
- provide a balance sheet?
- A: Yes, I believe so.
- Q: I would like to refer to Exhibit 4 to the [11]
- [12] application, and I would like you to indicate, if you
- [13] know, who prepared this.
- A: Bechtel & Cole I would say.
- Q: Did you review it before it was filed with
- [16] the FCC?
- A: Yes.
- Q: Do you recall making any changes to the
- [19] language provided by Bechtel & Cole?
- A: I don't remember. It certainly represented
- [21] our position there if that's what you're trying to
- [22] get at.

- Q: I'm just trying to get some information. I
- would like you to refer to the broadcasting equal
- 3 opportunity model program report that's included as
- [4] part of application and signed by you.
- A: Yes.
- Q: Referring to Page 3 of that form, do you
- m know who selected the organizations listed on that
- (8) page?
- A: I don't remember.
- Q: Do you know if you participated in
- [11] selecting any of those organizations?
- A: I really don't remember, but my guess would
- [13] be yes, but that's a guess.
- Q: And referring to the engineering exhibit,
- 15 specifically Page 25 of FCC Form 301, there's a
- [18] description of the proposed tower site.
- A: Yes.
- Q: Can you tell me the circumstances that led
- 1191 to the selection of that site?
- A: We negotiated a lease for it, that's the
- [21] site.
- Q: I want to back up. Before you negotiated

- [1] the lease, I assume you went through some process of
- 2 looking at potential alternatives?
- A: We hired a broker, yes.
- Q: Who was it on behalf of Adams that had
- [5] dealings with that broker?
- A: Me. [6]
- Q: What were your instructions to the broker? [7]
- A: Find a site given certain parameters.
- Q: Did you negotiate for any other sites?
- A: The broker may have, I didn't, I don't 1101
- [11] think. We talked the broker talked to other
- [12] people I think, but —
- Q: Do you know why it was decided to go with
- [14] this particular site?
- A: We negotiated it successfully with them.
- Q: Referring to Page 30 in the FCC Form 301
- (17) there's reference on that page to Mr. Steve Lubas of
- [18] Conestoga Telephone and Telegraph Company.
- [19] A: Right.
- Q: Do you recall whether you participated in
- [21] any discussions with Mr. Lubas prior to the time the
- [22] application was filed?

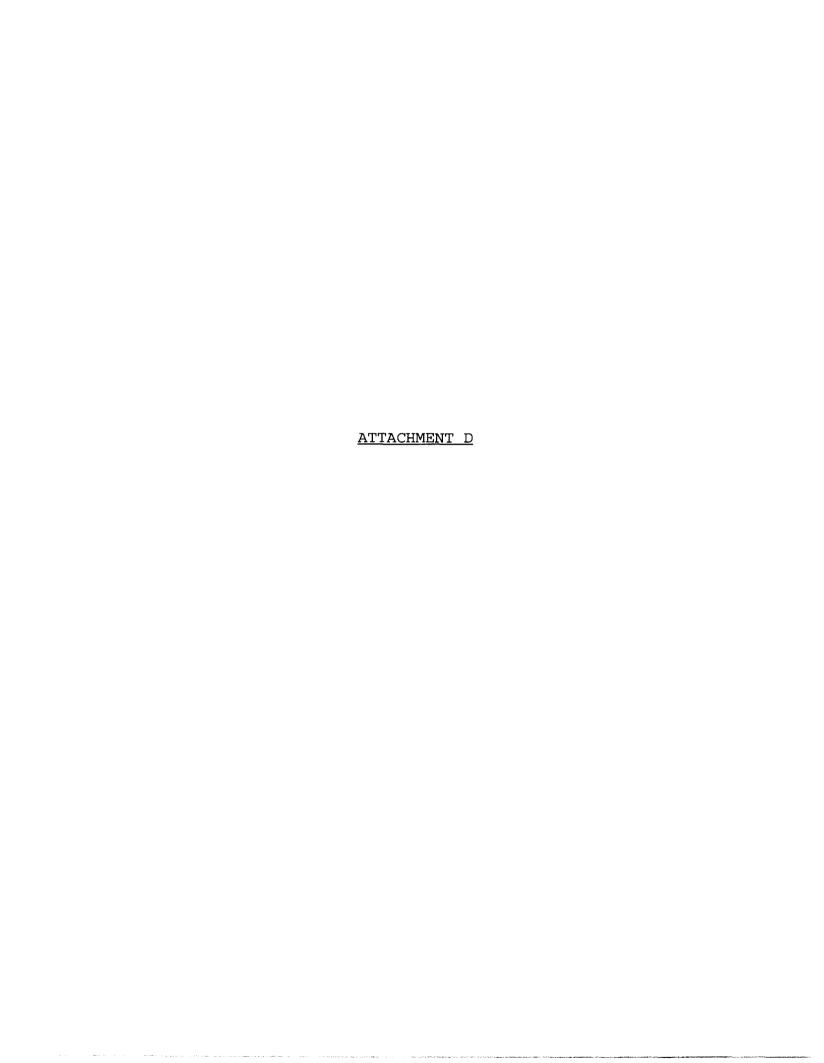


#### DECLARATION

Howard N. Gilbert, under penalty of perjury, hereby declares the following to be true and correct:

- I am an officer, director and shareholder of Adams Communications Corporation ("Adams"). I am preparing this Declaration for submission to the Federal Communications Commission in connection with Adams's Opposition to a Motion to Compel filed by Reading Broadcasting, Inc.
- In connection with Adams's initial preparation of its Marlborough, Massachusetts application, I arranged for the videotaping of six-ten days' (to the best of my recollection) worth of home shopping programming in the Boston area. I reviewed those tapes. However, since Adams decided not to file an application for the Marlborough channel, those videotapes were destroyed.
- In Adams's answers to RBI's interrogatories, I indicated that I had reviewed certain videotapes using a standard videotape recorder. I have no further recollection concerning that piece of equipment.
- In Adams's answers, I indicated that I interviewed a representative of the Reading Eagle. That interview occurred at the offices of the Reading Eagle. While I cannot recall many details concerning that particular interviewee, I can state with assurance that the interviewee was an adult female, and not a "10 year old delivering papers on her bicycle".

Howard N Gilbert Date: 1/04 3 2000



=Selection Criteria= :Earliest through 7/14/99 Date range Slip numbers :A11 User :A11 Client :Monroe.Adams Activity :A11 Custom Fields :A11 Reference :All :Billed slips and transactions excluded Slip status Other options Print Bills that are "paid in full" :Yes
Include transactions outside date range :Yes Print Bills with no activity :Yes

Nickname 1 Nickname 2: 4 : Howard N. Gilbert, Esquire Address Adams Communications Corporation

55 East Monroe Street Suite 4100

Chicago, IL 60603: 312-807-4600

Phone 1

Rounding : None Full Precision : No

Last bill

Last charge : 7/13/99

Le payment : Hora Full Bill : Until \$25.00 \$0.00 Amount :

: Time Charges: From slips. Arrangement : Expenses: From slips.

Date/Slip#	Description	HOURS/RATE	AMOUNT	TOTAL
10/15/93 #611	HFC / Research Research re NOI re commercial time, fax letter to Gilbert re NOI	1.00 125.00	125.00	
11/5/93 #583	LA / Work Work re FCC Research: WHSH & HSN affiliate list	5.50 50.00	275.00	
11/5/93 #610	HFC / Research Research re HSN affiliate list	0.50 125.00	62.50	
11/8/93 #584	LA / Work Work re FCC Research:93-8- HSN Programming	2.70 50.00	135.00	
) /9/93 #586	LA / Work Work re FCC Research: WHSH License search	0.30 50.00	15.00	
11/24/93 #713	LA / FCC Research FCC Research re WHSH update	0.30 50.00	15.00	
11/30/93 # <b>7</b> 17	LA / FCC Research FCC Research re update on WHSH(TV)	0.30 50.00	15.00	
12/1/93 #726	HFC / Telephone call Telephone call with Gilbert re application; telephone call with Mullaney, etc.	1.20 125.00	150.00	
12/2/93 #720	LA / FCC Research FCC Research re update on WHSH	0.50 50.00	25.00	
	HFC / Prepare Prepare pleading/Eng., misc	0.80 125.00	100.00	
12/10/93 #779	LA / FCC Research FCC Research re WHSH(TV) renewal	0.50 50.00	25.00	
12/14/93 #773	HFC / Letter Prepare letter re WHSH application, review WHSH application	0.80 125.00	100.00	
12/14/93 #776	LA / FCC Research FCC Research re WHSH license renewal retreiv	0.80 50.00	40.00	
12/27/93 #866	HFC / Telephone call Telephone call with Gilbert, Mullaney re tower sites, etc.	0.70 125.00	87.50	

:Howard N. Gilbert, Esquire (continued)

Date/Slip#	Description	HOURS/RATE	AMOUNT	TOTAL
12/28/93 #865	HFC / Telephone call Telephone call with Gilbert re miscellaneous	0.30 125.00	37.50	
1/5/94 #864	HFC / Telephone call Telephone call with Mullaney re site	0.30 125.00	37.50	
1/19/94 #942	HFC / Telephone call Telephone call with Gilbert, Mullaney re site, etc.	1.70 125.00	212.50	
2/1/94 <b>#94</b> 5	HFC / Telephone call Telephone call with Gilbert re site availability studys	0.30 125.00	37.50	
2/7/94 #1074	HFC / Telephone call Telephone call with Gilbert, Mullaney re site, etc.	0.60 125.00	75.00	
2/14/94 #1114	HFC / Telephone call Telephone call with Gilbert re status	0.30 125.00	37.50	
2/17/9 <b>4</b> <b>#11</b> 13	HFC / Telephone call Telephone call with Gilbert re tower specs	0.50 125.00	62.50	
2/25/9 <b>4</b> )12	HFC / Telephone call Telephone call with gilbert, Mullaney re sites	0.50 125.00	62.50	
2/28/94 #1155	LA / FCC Research FCC Research re WTVE - HSN affiliate	1.20 50.00	60.00	
3/1/9 <b>4</b> #1323	HFC / Telephone call Telephone call re Marlborough application	1.00 125.00	125.00	
3/23/94 #1322	HFC / Telephone call Telephone call with Cavell; review Cavell draft letter	0.80 125.00	100.00	
4/13/94 #1471	LA / FCC Research FCC Research re WTVE	1.50 50.00	75.00	
4/14/94 #1472	LA / FCC Research FCC Research re WTVE	3.00 50.00	150.00	
4/15/94 #1473	LA / FCC Research FCC Research re WTVE	1.00 50.00	50.00	
	LA / FCC Research FCC Research re WTVE renewal	0.75 50.00	37.50	
4/25/9 <b>4</b> #1578	HFC / Prepare Prepare letter re: reading files	1.50 125.00	187.50	
5/18/9 <b>4</b> #1579	HFC / Telephone call Telephone call with Cavell re status	0.40 125.00	50.00	
6/9/9 <b>4</b> #1713	HFC / Work Work re Reading application, federal reports, etc.	1.20 125.00	150.00	
6/10/9 <b>4</b> #1712	HFC / Draft appl. Work on draft application and related matters	3.50 125.00	437.50	
6/23/94 #1746	HFC / Work Work re application	1.20 125.00	150.00	
6/27/9 <b>4</b> #1747	<pre>HFC / Work Work re application, telephone Gilbert, telephone Cavell, etc.</pre>	2.00 125.00	250.00	
6/28/94 #1748	HFC / Prepare Prepare revised application, telephone Gilbert, Cavell, Prepare revised application, etc.	3.00 125.00	375.00	
6/29/9 <b>4</b> #1749	HFC / Telephone call Telephone call with Cavell, Gilbert, Research re local availability etc.	3.50 125.00	437.50	
6/29/9 <b>4</b> #1762	LA / File File and document preparation	2.00 50.00	100.00	

Date 7/15/99 Time 3:05 pm

#### Bechtel & Cole, Chartered Client Billing Worksheet

Page 3

:Howard N. Gilbert, Esquire (continued)

Date/Slip#	Description	HOURS/RATE	AMOUNT	TOTAL
6/30/9 <b>4</b> #1750	HFC / Prepare Prepare application, Local public inspection file letter, public notice, etc.	3.00 125.00	375.00	
	LA / File File re backup	0.70 50.00	35.00	

#### CERTIFICATE OF SERVICE

I hereby certify that, on this 3rd day of May, 2000, I caused copies of the foregoing "Opposition of Adams Communications Corporation to 'Motion to Compel'" to be hand delivered (as indicated below), addressed to the following:

The Honorable Richard L. Sippel Chief Administrative Law Judge Federal Communications Commission 445 12th St., S.W. - Room 1-C864 Washington, DC 20554 (BY HAND)

Norman Goldstein, Esquire James Shook, Esquire Enforcement Bureau Federal Communications Commission 445 12th Street, N.W. - Room 3-A463 Washington, D.C. 20554 (BY HAND)

Thomas J. Hutton, Esquire
Holland & Knight, L.L.P.
2000 K Street, N.W.
Suite 200
Washington, D.C. 20037-3202
Counsel for Reading Broadcasting, Inc.
(BY HAND)

Harry H. Cole